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10/071,437

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EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

12/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,437

Applicant(s)

STROMAN ET AL.

Examiner

Jared W. Newton

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-215,218-225 and 227-234 is/are pending in the application.
- 4a) Of the above claim(s) 5-40,52,56-214,219-222 and 229-234 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,41-51,53-55,215,218,223-225,227 and 228 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 11-40 and 63-214 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on September 20, 2007.

In view of Applicant's Preliminary Amendment filed September 20, 2007, claims 5-10, 52-62, 219-22 and 229-134 are withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 215 and 218 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "expert" in claim 215 is a relative term which renders the claim indefinite. The term "expert" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear how to determine whether a system is and "expert" system. Also, what may be considered an

"expert" system to one of ordinary skill in the art may not be considered an "expert" system to another.

Claims 223-225, 227 and 228 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "which access indicator" in claim 223 renders the claim indefinite because it implies multiple "access indicators" when only a single "access indicator" is claimed.

Because claims 224, 225, 227 and 228 depend from claim 223, they are also rejected under this section.

Claim 228 is further rejected under this section because it recites the limitation, "said accessible information." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 41-51 and 53-55 are rejected under 35 U.S.C. 102(b) as being anticipate by US Patent No. 6,000,361 to Pratt (hereafter Pratt).

In regard to claim 1, Pratt discloses a system and method for managing a plurality of animals comprising:

electronically detecting and identifying each of said plurality of animals (see col. 11, lines 11-36);

collecting information on said plurality of animals in a database with sensing devices, wherein at least a portion of said collection occurs automatically (see col. 6, lines 34-52) and is based, at least in part, on said electronic detection (see col. 12, lines 22-28; col. 31, lines 26-32);

processing at least a portion of said collected information (see col. 15, lines 16-32); and

providing access to said collected and processed information in said database, said user managing said plurality of animals based, at least in part, on said accessed data (see col. 6, lines 34-52).

In regard to claim 2, Pratt further discloses providing access to a second user when said second user purchases a plurality of animals (see col. 7, lines 53-62).

In regard to claim 3, Pratt discloses the system and method set forth above, wherein said system comprises:

a server ("host computer" —see col. 11, lines 31-37);

a plurality of computers coupled to said server (see col. 9, lines 33-39);

a central database coupled to said server (see col. 31, lines 26-32);

a plurality of electronic devices ("EIDs") coupled to at least a plurality of computers that are capable of detecting and identifying a plurality of animals (see col.

11, lines 11-36); wherein the server is configured to carryout the limitations noted in the rejection of claim 1 above.

In regard to claim 4, Pratt discloses the server as configured to provide access to a second user when said second user purchases a plurality of animals (see col. 7, lines 53-62).

In regard to claim 41, the method of Pratt as disclosed in the rejection of claim 1 anticipates the limitations of claim 41.

In regard to claim 42, the method of Pratt as disclosed in the rejection of claim 2 anticipates the limitations of claim 42.

In regard to claims 43 and 54, Pratt further discloses the operation of an ultrasound device (see col. 7, lines 6-16).

In regard to claims 44 and 55, Pratt further discloses the operation of an image capture device (see id.).

In regard to claim 45, Pratt further discloses the operation of a weighing device (see id.).

In regard to claim 46, Pratt further discloses the operation of a temperature sensing device (see col. 29, lines 19-22).

In regard to claim 47, Pratt further discloses operation of a height sensing device (see col. 29, lines 2-5).

In regard to claim 48, Pratt further discloses the operation of sensing devices occurring automatically (see Abstract).

In regard to claim 49, Pratt further discloses the collected information being processed as set forth in the rejection of claim 1.

In regard to claim 50, Pratt further discloses the prediction of future trends based, at least in part, on said collected information (see col. 5, lines 48-55).

In regard to claim 51, Pratt further discloses providing the user with an assessment of a livestock operation based, at least in part, on said collected information (see id).

In regard to claim 53, the method of Pratt as disclosed in the rejection of claim 2 anticipates the limitations of claim 42.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 215, 218, 223-225, 227 and 228 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No. 2002/0065765 to Shuler et al. (hereafter Shuler).

In regard to claim 215, Shuler discloses a method of enabling a user to manage a plurality of animals, said method comprising:

enabling a plurality of consumers to enter attributes relating to an individual animal of said plurality of animals (see [0008]);

collecting said entered attributes in a central database (see id.);

analyzing said collected attributes using an expert system (see id.);

providing said user with access to said analysis, said user managing said plurality of animals based at least in part on said analysis (see [0035]);

presenting said user with a plurality of product alternatives based, at least in part, on said analysis (see [0038]); and

said collecting comprising collecting marketing information related to said animal product (see id.).

In regard to claim 218, it is inherent within the teachings of Shuler that when a product provided by the disclosed producer is no longer offered, than that product would be referred to as "discontinued" or "not available."

In regard to claim 223, Shuler discloses a method of enabling a first user to manage information relating to a plurality of animals, said method comprising:

receiving a first communication from said first user, said communication requesting entry of animal attribute information into a central database (see [0027] and [0028]);

in response to said first communication, assigning an access indicator to said information (see [0029] and [0034]);

entering said information into said central database (see id.);

receiving a second communication from a second user having an access code that requests information in the central database (see [0034]-[0035]);

in response to said second communication, determining which access indicator is associated with said requested information (see [0045]);

limiting the quantity of requested information, for example by geography, to be provided to said second user based on said associated access indicator and said access code of said second user (see [0027]); and

automatically communicating inputted information to said second user (see Abstract).

In regard to claim 224, Shuler discloses the system and method as accessible by buyers and sellers having secure access through usernames and passwords (see e.g. [0024]). Therefore the information exchanged via the server is private.

In regard to claim 225, Shuler discloses the notification of a user when information is input into a database (see e.g. [0050]).

In regard to claim 227, Shuler further discloses allowing a user to select a portion of said inputted information to communicate to another user (see [0041]).

In regard to claim 228, Shuler further discloses providing the user with the capability to view a report of said information.

Conclusion

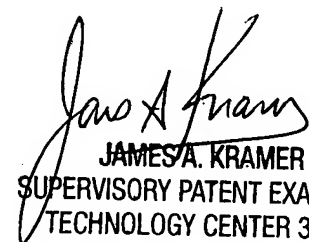
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JWN
November 20, 2007



11.28.07
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